

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

MICHAEL R. WHITE,

Plaintiff,

v.

**BAYHEALTH MEDICAL
CENTER, INC.,**

Defendant.

C.A. No.:

TRIAL BY JURY DEMANDED

COMPLAINT

1. Plaintiff Michael R. White (“White” or “Plaintiff”) is a resident of the State of Georgia residing at 5097 Planters Crossing, Hahira, GA 31632.

2. Defendant Bayhealth Medical Center (“Defendant” or “Defendant”) is a Delaware corporation whose registered agent for service of process is Bayhealth Medical Center, 640 South State Street, Dover, Delaware 19901.

3. Defendant is an employer within the State of Delaware and within the jurisdictional coverage of Title VII of the Civil Rights Act, as amended, 42 U.S.C. §2000e, *et seq.* (“Title VII”).

4. Jurisdiction is conferred on this Court by 42 U.S.C. § 2000e-5(f)(3), 28 U.S.C. § 1331, and 28 U.S.C. § 1343.

5. Venue for all causes of action stated herein lies in the District of Delaware pursuant to 28 U.S.C. § 1391(b), as the acts alleged as the basis for these claims took place within the boundaries of that District.

6. Plaintiff brings this action under Title VII of the Civil Rights Act of 1964, as amended, to redress the wrongs done to him by Defendant's discrimination against him on the basis of his religion.

7. Plaintiff timely submitted a complaint of discrimination based on his religion to the Equal Employment Opportunity Commission ("EEOC").

8. Plaintiff has received a Notice of Right to Sue for the above referenced charge from the EEOC.

9. Plaintiff has timely filed this Complaint within ninety (90) days of his receipt of the aforementioned Notice of Right to Sue.

10. Plaintiff was hired by Defendant as a Senior Information Technologies ("IT") Trainer on or about May 18, 2015.

11. Plaintiff held the position of Senior IT Trainer at the time of his discharge.

12. At all times relevant to this Complaint, Plaintiff was qualified for his job position and satisfactorily performed all duties of his job position.

13. Plaintiff holds a sincere religious belief that prevents him from taking the COVID-19 vaccine.

14. On August 12, 2021, Governor John Carney ordered that all Delaware state health care employees, which included Defendant employees, to either become

vaccinated or submit to regular testing for the COVID-19 virus by September 30, 2021.

15. On November 5, 2021, the Centers for Medicare and Medicaid Services (“CMS”) issued a COVID-19 vaccine mandate.

16. The CMS vaccine mandate required that health care facilities ensure that their covered staff were vaccinated against COVID-19, but also required that such facilities offer medical and religious exemptions.

17. Pursuant to the CMS mandate, a facility was considered 100% compliant when all of its staff were either vaccinated or had a medical or religious waiver.

18. On November 17, 2021, Plaintiff submitted a COVID-19 Religious Request for Immunization Exemption form to Defendant.

19. The request detailed the basis for Plaintiff’s sincerely held religious belief.

20. Plaintiff’s request for an exemption was accompanied by a letter from a religious leader of his church.

21. On December 14, 2021, Defendant informed Plaintiff via letter that his request for a religious exemption was denied.

22. On or about February 2, 2022, Plaintiff was suspended from his position as Senior IT Trainer with no explanation.

23. On February 8, 2022, an attorney from the law firm of Connolly Gallagher wrote to counsel for Defendant asking Defendant to reconsider its planned termination of Plaintiff's employment.

24. On the same date, February 8, 2022, Defendant terminated Plaintiff's employment for allegedly interfering in an internal investigation.

25. Plaintiff was subjected to differential treatment on the basis of his sincerely held religious beliefs by agents of the Defendant, including but not limited to retaliation and termination of his employment.

26. The reason proffered by Defendant for Plaintiff's termination was pretextual and intended to mask the true reasons for the Defendant's actions, i.e., discrimination and retaliation against the Plaintiff on the basis of his religion in violation of Title VII.

27. Defendant is liable for the actions of its agents as set forth in this complaint under the principles of agency and the doctrine of respondeat superior and pursuant to the ratification of the agents' actions by Defendant.

28. The wrongful acts committed by the Defendant, as stated hereinabove, were willful, wanton, and committed in bad faith.

COUNT I - TITLE VII

29. Plaintiff restates and hereby incorporates by reference paragraphs 1 through 31 hereinabove.

30. By committing the aforementioned acts, including Plaintiff's subsequent termination, Defendant has discriminated against Plaintiff on the basis of his sincerely held religious beliefs in violation of 42 U.S.C. § 2000e *et seq.*

31. By committing the aforementioned acts, including Plaintiff's subsequent termination, Defendant has retaliated against Plaintiff on the basis of his sincerely held religious beliefs in violation of 42 U.S.C. § 2000e *et seq.*

32. As a direct result of the discriminatory, retaliatory, and wrongful conduct of the Defendant, Plaintiff has suffered damages, including, but not limited to, severe emotional distress, pain and suffering, mental anguish, humiliation, and lost wages.

WHEREFORE, Plaintiff demands judgment against the Defendant for:

- a. back pay, including interest;
- b. reinstatement, if feasible, or in the alternative, front pay;
- c. compensatory damages, including damages for emotional and physical pain and suffering, inconvenience, mental anguish, loss of enjoyment of life, and all other non-pecuniary damages;
- d. punitive damages;
- e. pre-judgment and post-judgment interest;
- f. attorney's fees; and
- g. any other relief that this Court deems just.

SCHMITTINGER & RODRIGUEZ, P.A.

By: /s/ Gary E. Junge

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Attorney for Plaintiff

Dated: November 21, 2022